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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 657

*petition not
printed*

LOUISE PEETE,

Petitioner,

v.

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

RESPONDENT'S BRIEF

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Petitioner seeks a review by this honorable court of an order made by the Supreme Court of the State of California denying her petition for a writ of habeas corpus. (In *re Louise Peete*, 29 A.C. minutes of October 29, 1946.) In her petition she claimed for the first time, after her appeal from the judgment had been heard and affirmed by the Supreme Court (28 A.C. 321; 169 P. (2d) 924), that her trial, which

resulted in her conviction of murder of the first degree, was unfair under the Fourteenth Amendment to the Constitution of the United States. The specific reason assigned was that the introduction into evidence of a prior conviction of murder was a violation of due process of law.

STATEMENT OF THE CASE

The facts of the case are set forth in the decision of the Supreme Court of the State of California rendered on appeal from the judgment. Briefly, for the purpose of answering petitioner's points herein, the evidence shows that Mrs. Margaret R. Logan was killed and her body buried in a shallow grave in the rear of her residence which she and her husband owned in joint tenancy. Petitioner was an old friend of the Logans and was employed by Mrs. Logan to care for Mr. Logan, who was in a state of senile dementia. He had been placed in a state institution by Mrs. Logan with the assistance of petitioner. However, at the time of Mrs. Logan's death he was living at home and following Mrs. Logan's death and before the discovery of her body, he was returned to the institution at the request of petitioner who then took full possession of the Logan residence with her newly wedded husband.

Mrs. Logan was slain on or about May 29, 1944, and her body was discovered by the police on December 20, 1944. During this period, her disappearance was explained by petitioner to friends and relatives

of the Logans to the effect that Mr. Logan had gone berserk and had attacked his wife to such an extent that she was disfigured and had gone away to receive medical attention. During this period, Mr. Logan had died, and at the instance of petitioner his body was given to a medical school for scientific purposes. During this period, petitioner had Mrs. Logan's clothing made over to fit herself, opened Mrs. Logan's mail, and when necessary answered it in Mrs. Logan's name, had the interior of the house repainted and various article of furniture remodeled, paid incidental bills, gave away articles of personalty belonging to Mrs. Logan, used the Logan car, gas coupons and food stamps, etc. When arrested petitioner had in her suitcase two deeds of gift that purported to give the Logan residence to her.

It was the forgery of Mrs. Logan's signature to petitioner's parole reports subsequent to May 29, 1944, which led to police investigation and the discovery of Mrs. Logan's body buried in the back yard of her home. When confronted with this situation, petitioner stated that she dug the grave herself, obtained a heavy piece of material from the basement and put the body on this material and dragged it through the rear door to the back yard, and that her newly acquired husband knew nothing about the matter at all. On her trial, petitioner testified that Mrs. Logan was killed by Mr. Logan in an insane rage on May 29, 1944, that the explanation she had given for Mrs. Logan's disappearance was false and that her conduct after

May 29, 1944, was for the purpose of concealing Mrs. Logan's death to obviate suspicion that would be cast on petitioner because of her criminal record.

The autopsy revealed that a bullet had entered the back of Mrs. Logan's neck and struck the fourth cervical vertebra, narrowly missing the spinal cord, and had passed out of the body below the left jaw. Death was caused by two depressed fractures of the skull. The spent bullet was found lodged in the wall and had been fired from a .32 caliber revolver which petitioner had taken from the home of a woman parole officer under whose jurisdiction petitioner was serving parole on a prior conviction of murder, but who had died prior to petitioner's employment by Mrs. Logan. The skull fractures on Mrs. Logan's head were caused by the butt end of this gun.

The law of California is that the guilt of the defendant must be proved beyond a reasonable doubt, otherwise the defendant is to be acquitted. (Penal Code, Sec. 1096.) It is a well established principle of law that where intent is an element of the crime it is to be proved by the prosecution and that the prosecution in proof of such intent may show the recurrence of other like acts committed by the accused to negative inadvertence, defensive matter, or any other form of innocent intent. For this purpose, the evidence is receivable irrespective of whether the act charged is itself conceded or not. Where it is not conceded, the evidence of intent goes to the jury to be used by them only on the assumption that they

find the act to have been done by the accused; it is then to be employed by them in determining the intent. As to the similarity of the other acts, no fixed rule can be formulated. The precedents show every variety of circumstances, and a correct application of the principle would be to receive any evidence of the sort which conveys any real probative indication of the defendant's intent. Likewise, design and system finds frequent application. It supposes that a design or plan in the defendant is to be shown as making it probable that the defendant carried out the design or plan and committed the act. Former similar acts are received so far as through common features they naturally indicate the existence of such a plan, design or system of which they are the partial fulfillment or means. (Wigmore Evidence, 3rd Ed., Vol. 11, Sec. 363.)

Under the above established principles of law, the prosecution introduced in evidence the circumstances surrounding the killing of Jacob Denton in 1920 for which petitioner was convicted of first degree murder and sentenced to life imprisonment. This evidence showed that while petitioned was living in Denton's home, he disappeared; that petitioner explained his disappearance to his friends and relatives by telling them that he was injured in a quarrel in his home with a mysterious Spanish woman and had gone away to receive medical attention; that following an investigation by the police, his body was found buried in the basement of his home; that before the body was

found, petitioner had repairs made to the Denton home, had endeavored to effect the rental and sale thereof, had disposed of some of his personal effects, and had some of his clothing made over for herself, had used his automobile after the slaying, had forged his name to documents, and that following the discovery of his body, she admitted telling false stories as to his whereabouts. The autopsy revealed that Denton had been shot in the back of the neck, just to the left of the median line, opposite the fourth cervical vertebra, the exit wound being in the neck on the right side, below the right ear. The bullet had passed through the spinal cord, thereby causing immediate collapse and unconsciousness, followed by death in a very short time.

We have not pointed out all the common features of the two crimes, (the Denton and Logan murders), but believe we have mentioned enough of them to show the admissibility in evidence of the Denton transaction under the above stated principles of law. For further particulars we direct attention to the opinion rendered by the Supreme Court of the State of California on petitioner's appeal.

AUTHORITIES

In *Lisenba v. People of State of California*, 314 U.S. 219, 62 S. Ct. 280, 286, it is stated:

“Testimony was admitted concerning the death of James’ former wife, on the widely recognized principle that similar but disconnected acts may be shown to establish intent, design, and system.

The Fourteenth Amendment leaves California free to adopt a rule of relevance which the court below holds was applied here in accordance with the State's law."

Due process of law is process due according to the law of the land. This process in the states is regulated by the law of the state. *Holden v. Hardy*, 169 U.S. 366, 18 S. Ct. 383, 385.

The Fourteenth Amendment does not profess to secure to all persons in the United States the benefit of the same laws and the same remedies. Great diversities in these respects may exist in two states separated only by an imaginary line.

Holden v. Hardy, 169 U.S. 366, 18 S. Ct. 383, 386;
Hurtado v. State of California, 110 U.S. 516,
4 S. Ct. 111, 121.

The due process clause of the Fourteenth Amendment does not control mere forms of procedure in state courts or regulate practice therein. All its requirements are complied with, provided in the proceedings which are claimed not to have been due process of law the person condemned has had sufficient notice, an adequate opportunity has been afforded him to defend.

Twining v. New Jersey, 211 U.S. 78, 29 S. Ct. 14, 25.

In *Snyder v. Commonwealth of Massachusetts*, 291 U.S. 97, 54 S. Ct. 330, 338, it is stated:

"The law, as we have seen, is sedulous in maintaining for a defendant charged with crime what-

ever forms of procedure are of the essence of an opportunity to defend. Privileges so fundamental as to be inherent in every concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof. But justice, though due the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.

“The Constitution and statutes and judicial decisions of the Commonwealth of Massachusetts are the authentic forms through which the sense of justice of the people of that commonwealth expresses itself in law. We are not to supersede them on the ground that they deny the essentials of a trial because opinions may differ as to their policy or fairness. Not all the precepts of conduct precious to the hearts of many of us are immutable principles of justice, acknowledged *semper ubique et ab omnibus* (Authority cited) wherever the good life is a subject of concern. There is danger that the criminal law will be brought into contempt—that discredit will even touch the great immunities assured by the Fourteenth Amendment—if gossamer possibilities of prejudice to a defendant are to nullify a sentence pronounced by a court of competent jurisdiction in obedience to local law, and set the guilty free.”

CONCLUSION

The authorities cited above indubitably show that no federal question is presented by the petition filed herein. None of the authorities cited by petitioner sustain her position. Not every asserted unfairness in a trial presents a federal question, assuredly not those presented by the record herein. The introduction in evidence of the Denton murder, petitioner's conviction thereof, the affirmance of the judgment on appeal, etc., was approved by the Supreme Court of the State of California. The Fourteenth Amendment leaves California free to adopt a rule of relevance which that court holds was applied here in accordance with the State's law.

Wherefore, respondent urges a denial of the petition for a writ of certiorari.

Respectfully submitted,

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